

LARRY J. CALDWELL, SBN 88867
CALDWELL LAW FIRM
Larry.caldwell@caldwellfirm.net
401 Wilshire Boulevard, Twelfth Floor
Santa Monica, CA 90401
Telephone: (310)689-9769

Attorneys for Plaintiff
Rudolph Zahler

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

RUDOLPH ZAHLER,
PKA RIZ STORY

Plaintiff,

vs.

STEPHEN HOWE; "YES," A
BUSINESS ENTITY, CORPORATE
FORM AND RESIDENCE
UNKNOWN; JON DAVISON;
SONY MUSIC ENTERTAINMENT,
A DELAWARE GENERAL
PARTNERSHIP

CASE NO.: 2:24-cv-09818-AH-E

MEMORANDUM OF POINTS AND
AUTHORITIES RE: SERVICE OF
DEFENDANTS WHO RESIDE IN THE
UNITED KINGDOM

[proposed] ORDER submitted

1 In support of his pending ex parte application, Plaintiff Rudolph Zahler submits this
2 Memorandum of Points in response to the Court's request in its August 15, 2025, Order for
3 further briefing. The Order was entered and notice of it emailed to Larry Caldwell, attorney
4 for Mr. Zahler, on August 18, 2025. The Order requested the supplemental Memorandum
5 within fourteen days, which Mr. Caldwell understood as running from August 18, 2025.

6 **1. THE LAW GOVERNING SERVICE BY MAIL ON A DEFENDANT IN THE**
7 **UNITED KINGDOM**

8 The good news is that the Ninth Circuit has definitively decided this issue in *Ronald B.*
9 *Brockmeyer Eromedia, Ltd. v. David C. May v. Marquis Publications, Ltd.*, 383 F.3d 798
10 (2004). In *Brockmeyer*, plaintiff had served defendants in the United Kingdom by international
11 mail, without first obtaining court approval. The Court held that such service by mail, to be
12 effective, must be preceded by an order authorizing such service by mail. This made the
13 service invalid in *Brockmeyer*.

14 However, the Ninth Circuit took the opportunity to explain how service of a defendant
15 in the United Kingdom can be effective. The Court said there are two issues to be decided –
16 whether such means of service is authorized under the Hague Convention, and whether such
17 means of service is authorized under the Federal Rules of Civil Procedure.

18 On the first issue, the Ninth Circuit joined the Second Circuit in ruling that the Hague
19 Convention permits service by mail in the United Kingdom, as the treaty does not prohibit
20 service by mail, and the United Kingdom does not object to service by mail. *Brockmeyer*,
21 *supra*, 383 F.3d at 808

22 On the second issue, the Ninth Circuit, the court held that Rule 4(f)(3) of the Federal
23 Rules of Civil Procedure authorizes service by international mail, since service by such means
24 is not objected to by the United Kingdom –provided that Plaintiff must seek an Order
25 authorizing service by mail before serving a defendant in a foreign jurisdiction in this manner.
26 *Brockmeyer, supra*, 383 F.3d at 805-806. The Court discussed Rule 4(f)(3) and the past
27 precedent it relied on for this holding:

28 Rule 4(f)(3) (previously Rule 4(i)(1)(E)) affirmatively authorizes the federal district
court to direct any form of service that is not prohibited by an international agreement.

It provides:

(f) [S]ervice ... may be effected in a place not within any judicial district of the United
States:

1 (3) by other means not prohibited by international agreement as may be directed by the
2 court.

3 The decision whether to allow alternative methods of serving process under Rule
4 4(f)(3) is committed to the “sound discretion of the district court.” *Rio Props., Inc. v.*
5 *Rio Int’l Interlink*, 284 F.3d 1007, 1016 (9th Cir.2002) (permitting service on a foreign
6 corporation by regular mail and by e-mail, when authorized by the district court). The
7 classic case is *Levin v. Ruby Trading Co.*, 248 F.Supp. 537 (S.D.N.Y.1965), in which
8 the court authorized service abroad by ordinary mail under previous Rule 4(i)(1)(E),
9 which was identical to current Rule 4(f)(3). In *Levin*, the court contrasted
10 Rule 4(i)(1)(D) (now Rule 4(f)(2)(C)(ii)) with Rule 4(i)(1)(E), observing that Rule
11 4(i)(1)(D) “authorizes service by mail without court supervision, and it is for this reason
12 that the double safeguard of mailing by the clerk of the court and a signed receipt was
13 set up.” *Id.* at 540. The court held that it could nonetheless authorize service by
14 ordinary mail under Rule 4(i)(1)(E), because “the necessary safeguards are determined
15 by the court[,] which to assure adequacy of notice, may ‘tailor the manner of service to
16 fit the necessities of a particular case....’” *Id.* (quoting Fed.R.Civ.P. 4(i)(1)(E) (1963)
17 Advisory Committee Note). Other courts have widely accepted *Levin*’s reasoning. *See,*
18 *e.g., Rio Props.*, 284 F.3d at 1016 (citing *Levin*); *Int’l Controls Corp. v. Vesco*, 593
19 F.2d 166, 175 n. 4 (2d Cir.1979) (same). Courts have authorized a variety of alternative
20 methods of service abroad under current Rule 4(f)(3) and former Rule 4(i)(1)(E),
21 including not only ordinary mail and e-mail but also publication and telex. *Rio Props.*,
22 284 F.3d at 1016 (citing *SEC v. Tome*, 833 F.2d 1086 (/c/F.2d/833/1086/), 1094 (2d
23 Cir.1987) (affirming district court’s authorization of service of process by publication);
24 *Int’l Controls Corp.*, 593 F.2d at 176; *Forum Fin. Group v. President, Harvard Coll.*,
25 199 F.R.D. 22, 23-24 (authorizing service by certified mail to defendant’s attorney);
26 *Smith v. Islamic Emirate*, 2001 WL 1658211, at *806 *2-*3 (S.D.N.Y. Dec.26, 2001)
27 (authorizing service of process by publication on Osama bin Laden and al-Qaeda);
28 *Broadfoot v. Diaz (In re Int’l Telemedia Assoc.)*, 245 B.R. 713, 719-20
(Bankr.N.D.Ga.2000) (authorizing service via facsimile, ordinary mail, and email);
Levin, 248 F.Supp. at 541-44 (S.D.N.Y.1965) (employing service by ordinary mail)).
Brockmeyer, supra, 383 F.3d at 805-806

1 The Ninth Circuit emphasized that before serving a foreign defendant by mail, Plaintiff
2 must obtain an Order from the District court authorizing service in that manner. *Brockmeyer*,
3 *supra*, 383 F.3d at 806.

4 On the other hand, in *Rio Properties, Inc. v. Rio Properties Interlink*, 284 F.3 1007,
5 1015-1016, the Ninth Circuit held that court-ordered service by mail under Rule 4(f)(3) is but
6 one of several means of service, and a party is not required to have shown an inability to
7 achieve service by another method as a prerequisite to obtaining authority to serve by mail
8 under Rule 4(f)(3).

9 [W]e disapprove of the statements in *Graval* which would require attempted service by
10 all feasible alternatives before service under Rule 4(f)(3) is allowed. Instead, we hold
11 that Rule 4(f)(3) is an equal means of effecting service of process under the Federal
12 Rules of Civil Procedure, and we commit to the sound discretion of the district court
13 the task of determining when the particularities and necessities of a given case require
14 alternate service of process under Rule 4(f)(3).

15 The court further explained that

16 Applying this proper construction of Rule 4(f)(3) and its predecessor, trial courts have
17 authorized a wide variety of alternative methods of service, including publication,
18 ordinary mail, mail to the defendant's last known address, deliver to the defendant's
19 attorney, telex, and most recently, email.

20 *Rio Properties, supra*, 284 F.3 at 1016.

21 The Court emphasized that the key issue in determining whether a method of service
22 authorized by a District Court under Rule 4(f)(3) is proper is "whether the method of service is
23 reasonably calculated to provide notice and an opportunity to respond." *Rio Properties, supra*,
24 284 F.3 at 1017

25 **2. THE COURT SHOULD AUTHORIZE SERVICE ON DEFENDANT STEPHEN**
26 **HOWE BY INTERNATIONAL MAIL, RETURN RECEIPT REQUESTED**

27 The Court should exercise its authority under Rule 4(f)(3) to issue an order authorizing
28 Mr. Zahler to serve Defendant Stephen Howe by international mail, return receipt requested,
addressed to him at his London address. The "return receipt requested" mail service will
ensure that Mr. Howe actually receives the Summons and Complaint.

Mr. Zahler is confident that the London address where personal service was attempted
is in fact Mr. Zahler's residence. As discussed in the Declaration of Larry J. Caldwell, Mr.

1 Zahler hired a reputable London-based private investigation company to locate Mr. Zahler. As
2 discussed in Exhibit A to the Caldwell Declaration, as part of their location effort, the private
3 investigator spoke hy telephone with Mr. Howe's wife, who confirmed that the London address
4 is in fact Mr. Howe's address. When an agent returned to the London address to attempt
5 personal service, the same woman advised that Mr. Howe was away, in his Devon home.
6 Exhibit B.

7 Mr. Howe's Devon address was confirmed by the same private investigation service.
8 Exhibit C.

9 **3. THE COURT SHOULD AUTHORIZE SERVICE ON DEFENDANT JON**
10 **DAVISON BY E-MAIL, OR BY INTERNATIONAL MAIL, RETURN RECEIPT**
11 **REQUESTED**

12 At this point, Mr. Zahler only has an e-mail address for Jon Davison, as he has been
13 focused on getting Stephen Howe served.

14 Since e-mail is the media in which Mr. Davison has preferred to communicate with Mr.
15 Zahler and Mr. Caldwell, and since the email address Mr. Davison normally uses is known to
16 Mr. Zahler, Mr. Zahler requests an Order under Rule 4(f)(3) authorizing service of the
17 Summons and Complaint on Mr. Davison by email.

18 In the alternative, Mr. Zahler also requests an Order under Rule 4(f)(3) authorizing
19 service of the summons and complaint on Mr. Davison by international mail, return receipt
20 requested. Mr. Zahler will hire the London private investigation company can locate a mailing
21 address for Mr. Davison.

22 **4. CONCLUSION**

23 The proposed Order will afford due process and adequate notice of the lawsuit to
24 Defendants Howe and Davison and will also permit this case to move forward, without
25 burdening Mr. Zahler with further expenses to try to serve them by other means.

26 Mr. Zahler is submitting an amended proposed order to authorize service on Mr. Howe,
27 and service by email or mail on Mr. Davison.

28 Dated: September 1, 2025

/s Larry J. Caldwell

LARRY J. CALDWELL

Attorney for Plaintiff Rudolph Zahler

DECLARATION OF LARRY J. CALDWELL

I, Larry J. Caldwell, declare:

1. I am an attorney licensed to practice law in California since 1979. I have personal knowledge of the following facts.

2. At my direction, my client hired a London-based private investigation company called CCS Nationwide to locate and serve Stephen Howe. They located a residential address for him in London, 27 Rookfield Ave, London N10 3TS. Attached as Exhibit A is a true and correct copy of CCS Nationwide's trace report regarding Mr. Howe. As the Court can see, the agent for CCS Nationwide spoke to Mr. Howe's wife by phone, who confirmed that he resides at the London address.

3. Attached as Exhibit B is CCS Nationwide's report on their unsuccessful first attempt to serve Mr. Hower at his London address. According to the report, the agent spoke to a woman at the address who again confirmed it is Mr. Howe's residence, although at the time, she reported that he was at his Devon address. The woman is believed to be Mr. Howe's wife.

4. I had known from my own previous attempt to locate Mr. Howe that he owned a second residence in Devon, England. I instructed CCS Nationwide to locate Mr. Howe's second residential address in Devon. They reported to me that they had found his address in Devon. Based on our experience with CCS Nationwide, I am confident that they did. Unfortunately, when they made two attempts to serve Mr. Howe at his Devon residence, no one was there. Attached as Exhibit C is a true and correct copy of CCS Nationwide's report on its attempts to personally serve Mr. Howe at his Devon home.

I declare under penalty of perjury, under the laws of the State of California, that I executed this Declaration on September 1, 2025, in Santa Monica, California.

/s Larry J. Caldwell

EXHIBIT A

Private and Confidential

CCS Nationwide Ltd

Date: 10 Jul 2025
Our ref: T101589
Your ref:

Fairgate House
205 Kings Road
Tyseley
Birmingham
B11 2AA



Tel: (+44) 121 449 3045
Fax: (+44) 121 442 5340
Email: info@ccsnationwide.co.uk
Website: www.ccsnationwide.com



F.A.O. Rudolph Zahler

Rudolph Zahler
7100 hillside Ave 603
Los Angeles, CA

90046

TRACE REPORT

Please note this report is supplied for the sole use of the recipient only. All information relating to the report will be destroyed after a period of 28 days.

INFORMATION PROVIDED:

Name: Stephen James Howe
Date of Birth: Not Supplied
Last Known Address(es):

TRACE RESULT

Under the Premium flash service, our enquiries demonstrate that your subject is currently resident at: -

27 Rookfield Ave
London
N10 3TS

ADDITIONAL INFORMATION:

(0208 365 3155)

We can confirm that the correct DOB for Stephen James Howe is 8/4/47 & he resides at the above address. Confirmed by speaking to his wife Janet Howe on the above number.

We have Agents available in the area should you require documents to be served or further enquiries to be made.

We hope that the above information is of assistance.

We would be grateful if you would please quote our references, as noted above, on all correspondence.

Yours sincerely,

CCS Nationwide Ltd

*This report is only valid for 28 days. Any queries with the information provided must be raised within this timeframe.
Issues raised thereafter cannot be accepted and any charges raised will not be refunded or credited.*

EXHIBIT B



Info CCSNationwide <info@ccsnationwide.co.uk>

Tue, Jul 15,
1:08 PM

to togethermentfilms@gmail.com, me, CCS, Info

Evening Both

Our agent has attended here at 7 30pm and met with an older lady who confirmed she was the partner of subject.

She then stated he is away in Devon at the moment and will be returning at the end of next month.

Please advise how you would like to proceed further?

Thanks,

Kind Regards

Christina Rigby

christina.rigby@ccsnationwide.co.uk

Fairgate House, 205 Kings Road, Tyseley, Birmingham,
B11 2AA

0121 442 5332 | www.ccsnationwide.com

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EXHIBIT C

☰ Gmail

🔍 CCS Nationwide

✕ ⌵ ? ⚙️ ⚡ ⋮

Compose

Inbox 1,668

Starred

Snoozed

Sent

Drafts 21

More

Labels

CCS Nationwide Ltd - [URN105197] Inbox x

C

admin@ccsformations.co.uk

to me

Wed, Aug 6, 6:30 AM

😊 ↶ ⋮

Case number


105197

Client reference

Partner reference

Subject

Stephen Howe



ccs nationwide

tracing & investigations

CCS Nationwide Ltd - [URN105197]

Hi Larry
Our agent made 2 attempts to serve the subject at EX36 4JW, please find details below :-

I can report I visited the address given this morning (Saturday 02/08/25) at 11.45 hrs which is a very remote property. I could get no reply and it was noted that most of the curtains in the property were closed and a parcel addressed to the subject was in the front porch.
I spoke with the closest neighbour who stated she thought the subject went away last Tuesday and had no idea when he would be back as he spends a lot of time away in London, she did text him while I was there to ask him when he might be back but got no reply and the message was not delivered as if his phone was switched off.
Please note the correct address is Langley, not Langlands, as promised I will make a further visit tomorrow and let you know our findings, it was suggested that the subject spend extended periods in London and no one ever knows when he is going to be at the address.
Pic attached for your information.

I made a further visit this morning (Sunday 03/08/25) at 11.20 hrs but still no one at the address the curtains remained closed throughout the property and the parcel in the porch was still there as per previous visit.

How would you like us to proceed on this – can the document be letterboxed if it is not possible to personally serve on the 3rd attempt?Would you like us to go back to the London Address

Kind Regards

① Upgrade →